

ENTERED

November 18, 2019

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

AVERY JAMES,

Defendant.

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CRIMINAL ACTION NO. H-19-137-2

REPORT AND RECOMMENDATION

On November 18, 2019, Defendant Avery James appeared with counsel for re-arraignment before the undersigned magistrate judge, the matter having been referred the District court pursuant to 28 U.S.C. §636(b). Defendant appeared for the purpose of entering a guilty plea to Counts 1-6 of the Indictment charging him with assault on a federal officer in violation of 18 U.S.C. § 111(a)(1) and (b) and 2, robbery of a person in lawful control and custody of money of the United States, in violation of 18 U.S.C. § 2114(a) and 2, conspiracy to interfere with commerce by robbery, in violation of 18 U.S.C. § 1951(a), interference with commerce by robbery, in violation of 18 U.S.C. § 1951(a) and 2, and possession of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(ii) and 2.

Defendant Avery James consented in writing to plead guilty before a United States Magistrate Judge. After a conducting a hearing as prescribed by Rule 11 of the Federal Rules of Criminal Procedure, this court makes the following findings of fact:

1. Defendant Avery James, after consultation with counsel of record and with the approval of the government, has knowingly and voluntarily consented to be advised of his rights and to enter a plea of guilty before a U.S. Magistrate Judge subject to final approval and imposition of sentence by Chief United States District Judge Lee H. Rosenthal.

2. Defendant Avery James is fully competent and capable of entering an informed plea.
3. Defendant Avery James is aware of the nature of the charges, the maximum punishment range and other penalties that may be imposed at sentencing.
4. Defendant Avery James understands his constitutional and statutory rights and wishes to waive those rights.
5. Defendant Avery James understands that the sentencing judge is not bound by any recommendation on sentencing made by either counsel for the government or counsel for the defendant, and that if a recommendation on sentencing is not followed by the sentencing judge, he may not withdraw his plea of guilty.
6. Defendant Avery James's plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense charged in Counts 1-6 of the Indictment.

Based upon the foregoing, it is **RECOMMENDED** that the guilty plea of Defendant Avery James to Counts 1-6 of the Indictment charging him with assault on a federal officer in violation of 18 U.S.C. § 111(a)(1) and (b) and 2, robbery of a person in lawful control and custody of money of the United States, in violation of 18 U.S.C. § 2114(a) and 2, conspiracy to interfere with commerce by robbery, in violation of 18 U.S.C. § 1951(a), interference with commerce by robbery, in violation of 18 U.S.C. § 1951(a) and 2, and possession of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(ii) and 2.

The Clerk shall send copies of this Report and Recommendation to the respective parties who have fourteen (14) days from receipt to file written objections to this Report and Recommendation pursuant to General Order 2002-13. A party's failure to file written objections shall bar that party from attacking on appeal the factual findings and legal conclusions contained in the Report and Recommendation.

The original of any written objections shall be filed with the United States District Clerk, P.O. Box 61010, Houston, Texas, 77208. Copies of objections shall be mailed to opposing parties and to the chambers of the undersigned, 515 Rusk, Suite 7019, Houston, Texas 77002.

SIGNED at Houston, Texas, this 18th day of November, 2019.



Christina A. Bryan
United States Magistrate Judge